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ONE HUNDRED NINTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074  
FACSIMILE (202) 225-3974  
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TTY (202) 225-6852

<http://reform.house.gov>

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December 6, 2005

The Honorable Tom Davis  
Chairman  
Committee on Government Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I am writing to inquire about the standards used in deciding what subjects the Committee will investigate.

From my perspective, it is difficult to reconcile the repeated rejections of my requests to investigate the leak of classified information involving CIA agent Valerie Plame Wilson with the recent decision to investigate the leak of classified information by Leandro Aragoncillo, a former White House and FBI official. It is also hard to reconcile the repeated rejections of my requests to investigate front-page reports in the *Washington Post* about widespread contract abuses at the federal Department of Homeland Security with the recent decision to investigate front-page reports in the *Washington Post* about contract abuses involving the District of Columbia.

I am not opposed to the Aragoncillo and the District contracting investigations. But I would be strongly opposed to a double standard that insulates President Bush and his top officials from appropriate oversight.

### Plame and Aragoncillo

On November 1, you turned down my fourth request over the past two years for a Committee investigation concerning allegations that top White House aides inappropriately disclosed classified information exposing CIA agent Valerie Plame Wilson's identity.<sup>1</sup> As in previous communications, you asserted that your rationale for declining to conduct oversight on this issue is that there is an ongoing Department of Justice criminal investigation.<sup>2</sup>

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<sup>1</sup> Letter from Chairman Tom Davis to Rep. Henry A. Waxman (Nov. 1, 2005).

<sup>2</sup> *Id.*

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Less than three weeks later, however, on November 18, you initiated an investigation concerning allegations that Leandro Aragoncillo, a former White House and FBI employee, inappropriately disclosed classified information he obtained at the White House and FBI to individuals in the Philippines. At the time you initiated this investigation, there was an ongoing Department of Justice criminal investigation into the Aragoncillo matter.<sup>3</sup>

It is difficult for me to understand how your refusal to investigate the involvement of the White House in the Plame matter can be consistent with your decision to investigate the Aragoncillo matter. In both cases, there is an ongoing criminal investigation. Moreover, your November 18 letter to Secretary of Defense Donald Rumsfeld and Director of the Federal Bureau of Investigation Robert Mueller regarding the Aragoncillo investigation emphasizes that the Aragoncillo disclosures raise questions about the adequacy of the Administration's system for handling classified information. That is precisely the same concern I have expressed with respect to the disclosure of Ms. Wilson's identity in multiple requests for a Committee probe.<sup>4</sup>

I am not opposed to your inquiry into the implications Mr. Aragoncillo's alleged disclosure has with respect to the Administration's system for protecting classified information. Congress has an independent constitutional obligation to conduct oversight and has often exercised this authority concurrently with a criminal investigation.<sup>5</sup> But what I cannot understand is the rationale for investigating the implications of Mr. Aragoncillo's actions but not the implications of the actions of Karl Rove, I. Lewis "Scooter" Libby, and the other officials involved in the Plame matter. The Aragoncillo case involves disclosure of documents that reportedly "do not appear to contain any important U.S. secrets" by a government official who

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<sup>3</sup> See, e.g., *The First-ever Case Alleging a 'Mole' in the White House*, Christian Science Monitor (Oct. 7, 2005).

<sup>4</sup> See, e.g., Letter from Rep. Henry A. Waxman to Chairman Tom Davis (Nov. 15, 2005) (noting that key unanswered questions include whether the leak "indicate[s] that the White House has an inadequate system in place to control the use and disclosure of classified information" and why the President did not follow the executive order that requires "'appropriate and prompt corrective action' to investigate security breaches and terminate the security clearances of employees who disclose classified information to individuals who are not authorized to receive it"); Letter from Rep. Henry A. Waxman to Chairman Tom Davis (Oct. 28, 2005) (stating that the Committee should examine "why the White House failed to meet its obligations to investigate the leak and revoke the security clearances of those involved"); Letter from Rep. Henry A. Waxman to Chairman Tom Davis (Dec. 11, 2003) (stating "There should be an investigation of what can be done to fix the system so this doesn't happen again" and urging review of "whether White House officials violated the terms of their non-disclosure agreements").

<sup>5</sup> See Letter from Rep. Henry A. Waxman to Chairman Tom Davis (Nov. 16, 2005).

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no longer has access to classified information.<sup>6</sup> The Plame case involves disclosure of a covert CIA agent's identity by top aides to the President and Vice President, at least one of whom continues to have access to important national security information. The Plame leak thus would appear to raise far more serious questions for Congress and the nation than does the Aragoncillo case.

### **Homeland Security and DC Contracting Abuses**

I have similar concerns about your approach to oversight of contracting abuses. Earlier this year, the *Washington Post* ran a series of articles about massive contracting abuses at the Department of Homeland Security. I wrote you a series of letters after these disclosures asking for a Committee investigation and urging that we request basic documents, such as audits of contract irregularities. I received no response to these letters. No document requests were made. And except for one staff-level briefing regarding one of the contracts, no Committee action was apparently taken.

Last week, the *Washington Post* ran another series of articles about contracting abuses, but this time involving the District of Columbia. Your response was nearly instantaneous. You sent letters to the Mayor and Chief Financial Officer seeking detailed documentation,<sup>7</sup> and you initiated a GAO investigation.<sup>8</sup>

I do not want to minimize the significance of the *Washington Post* revelations about the District of Columbia. But no one can argue that the District of Columbia abuses are of the same magnitude as the abuses involving the Department of Homeland Security. As disclosed by the *Washington Post* and in other investigative reports, the contracting abuses by the Department of Homeland Security jeopardize our national security and may have squandered literally billions of taxpayer dollars. Yet our Committee is apparently ignoring these extraordinary abuses to focus on reports of contract abuses that involve far lower sums and have only local implications.

As with the Aragoncillo matter, I am not opposed to a Committee investigation of procurement abuses in the District of Columbia government. But if we can find time to investigate matters such as whether the District of Columbia overspent on technology for the sale of lottery tickets, surely we should also be able to investigate Department of Homeland Security contract abuses that are costing taxpayers hundreds of millions of dollars and imperiling our ability to screen luggage for explosives and detect nuclear devices at our ports.

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<sup>6</sup> *Philippine Spy Scandal Comes Amid Turmoil*, Los Angeles Times (Oct. 17, 2005).

<sup>7</sup> Letter from Chairman Tom Davis to Anthony Williams, Mayor of the District of Columbia (Dec. 2, 2005); Letter from Chairman Tom Davis to Dr. Natwar M. Gandhi, Chief Financial Officer, District of Columbia (Dec. 2, 2005).

<sup>8</sup> *See U.S., D.C. Officials Demand Spending Probe*, Washington Post (Nov. 29, 2005).

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### **Conclusion**

Mr. Chairman, I have a high personal regard for you. And I know that compared to other committee chairmen and the Republican leadership, you have tried to conduct some oversight of the Administration. But two facts are inescapable: (1) the Republican-controlled Congress has abdicated its constitutional responsibility to conduct oversight of the Bush Administration and (2) as Chairman of the Government Reform Committee, the principal investigative committee in the House, you have a major role in shaping the oversight agenda of the House.

I will write you a longer letter in the near future about my suggestions for Committee oversight for next year. I am writing now in the hope that you will reconsider your refusal to investigate the outing of CIA agent Valerie Plame and the contracting abuses at the Department of Homeland Security. In the alternative, if you will not reconsider these decisions, I believe you should explain the rationale rejecting oversight in these areas while taking up the Aragoncillo and District of Columbia contracting matters.

Thank you for your attention to this issue.

Sincerely,

A handwritten signature in black ink that reads "Henry A. Waxman". The signature is written in a cursive, flowing style.

Henry A. Waxman  
Ranking Minority Member